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3 **Resolution Relating to**

RESOLUTION _____

Sponsor(s): Councilors Keogh, Wright
Paul, Mulvaney-Stanak: Board
of Finance

Introduced: 04/11/11

Referred to: _____

Action: _____

Date: _____

Signed by Mayor: _____

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6 **AUTHORIZATION FOR CONSULTING**
7 **SERVICES CONTRACT WITH FRASCA**
8 **& ASSOCIATES, LLC**

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13 **CITY OF BURLINGTON**

14 In the year Two Thousand Eleven.....
15 Resolved by the City Council of the City of Burlington, as follows:

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17 RESOLVED that the Contract for Consulting Services between the City and Frasca &
18 Associates, LLC pursuant to which Frasca shall act as a Financial Consultant and Financial
19 Advisor to the CAO and the Burlington International Airport in the effort to secure the issuance
20 of revenue bonds not in excess of \$22 Million to fund the most recent capital improvements at
21 the Airport including most specifically the expansion of the Airport parking garage, such
22 contract to last until the bonds are issued or December 31, 2011, whichever later occurs, unless
23 extended by mutual agreement, is hereby approved, and the Honorable Mayor Bob Kiss be and
24 hereby is authorized to execute such contract on behalf of the City, as per the terms and
25 conditions of such contract.

26 AND BE IT FURTHER RESOLVED, that in consideration of the services it has and will
27 be offering to the City, the City shall compensate Frasca (from Airport revenues) at the sum of
28 \$12,500 per month until Airport revenue Bonds are sold and thereafter at \$8500 per month for
29 the balance of its contract services, with such obligation commencing retroactive to February 1,
30 2011.

CONTRACT FOR CONSULTING SERVICES

THIS AGREEMENT, made and entered into this 1st day of February, 2011 by and between the City of Burlington, a Vermont Municipal Corporation, acting by and through its Chief Administrative Officer (CAO) and the Airport which it owns and operates designated the Burlington International Airport (Airport) or (City), and Frasca & Associates, LLC., a New York limited liability company with principal place of business in New York, New York, but authorized to conduct business in the State of Vermont (Frasca);

WHEREAS, the City is an origin and destination facility located in South Burlington, Vermont; and

WHEREAS, the City is in the middle of constructing capital improvements including an expansion of its parking garage facility; and

WHEREAS, THE City has received authorization from the City of Burlington's voters to issue Airport Revenue Bonds in an amount not to exceed \$22 Million for such capital improvements; and

WHEREAS, the City has used City and Airport reserve funds to undertake construction of the parking garage addition in anticipation of having such expenditures reimbursed through the issuance of revenue bond funds: and

WHEREAS, the City has enabling authorization to issue its revenue bonds and has issued previous series of such bonds which are still outstanding, and expects to issue the revenue bonds for these improvements on a parity basis with the outstanding revenue bonds; and

WHEREAS, Frasca is a transportation services consultant which operates throughout the United States and provides advice to Airports with respect to the acquisition of financing and regarding operational protocols and improvements; and

WHEREAS, Frasca is willing to provide its expert assistance to the City in connection with the current capital improvement plan and financing and, potentially, as an ongoing consultant and financial advisor to the City and the Airport in connection with future operational and capital needs;

NOW THEREFORE IT IS AGREED by and between the City and Frasca as follows:

1. The City engages and hires Frasca to serve as transportation and financing consultant and financial advisor in connection with the current capital plan of the Airport and for arranging permanent financing through the issuance of Airport revenue bonds in connection therewith.

2. Frasca shall operate as an independent consultant and contractor with regard to this contract. It accepts this consulting assignment from the City and commits to provide to the City the degree of expert knowledge and assistance commensurate with its familiarity with the aviation industry in the United States, the financing of Airport facilities and the means and methods to be employed to carry out capital projects and secure the financing thereof on the best possible basis for the Airport.

3. Without limiting the generality of the foregoing, Frasca specifically commits to the Airport to provide the following services:

- Assist the Airport in the development of materials to aid in stabilizing the ratings for the Airport's debt as well as to strategize on appropriate approaches to the rating agencies.
- Assist the Airport in developing a plan for the Airport's sale of debt for refinancing the garage facility or for any other purposes the Airport deems desirable for the Airport as soon as possible. It is the Airport's goal to complete the sale of a financing for the Airport garage by June 30, 2011.
- Assist in formulating and updating a financial plan for the Airport through assembling and reviewing all relevant financial information, facility development plans, legal, engineering and economic data.
- Provide recommendations with regard to the optimal size and timing of this and possible future Airport revenue bond issues for the Airport.
- Assist the Airport and Bond Counsel in preparation of preliminary and final official statements, review any other documents relating to the issuance of bonds, notes or other obligations, and participate in working group meetings.
- Attend meetings of the Airport's Board of Commissioners or of the Burlington City Council as required.
- Assist in selection of underwriters, trustee, credit institutions, and other parties that may be needed to market, sell and administer bonds.
- Analyze the merits of any financing or structuring options proposed by underwriters, make recommendations as to the appropriate method of sale of any bonds by the Airport and evaluate the cost-effectiveness of bond insurance bids.
- Review and comment on the retail and institutional marketing plans developed by the underwriters for any such bond issue.
- Provide pre-sale market analyses and participate in retail and investor pricing discussions with the underwriters, prior to and on the date of pricing.
- Assist in underwriter compensation negotiations and the review of the book running senior manager's proposed bond allotments.
- Review industry practices and make recommendations regarding liability assignments, retention, priority of orders, and designation policies.

- Assist, to the extent necessary, in the development of a monthly financing plan which would:
 - Identify the short and long term financing needs of the Airport.
 - Analyze financing options and alternative debt structures.
 - Assist with presentations to rating agencies, bond insurers and potential investors.
 - Generally be available to consult with the City and the Airport and to perform special projects or tasks requested by the Airport's staff.
 - Provide ongoing debt modeling support for the Airport's capital programs and quantitative analysis of potential financing options.
 - Assist with development and implementation of strategies to secure AIP funding and/or other federal financial assistance.
 - Assist the Airport in the preparation of applications and supporting documentation relating to the receipt of PFC collection authority.
 - Periodically review outstanding Airport revenue bonds to ascertain the potential savings from a refunding or debt restructuring.
 - Provide advice and assistance with regard to investment of bond proceeds and Airport fund balances.
 - Provide regular and as-needed financial advice regarding market conditions and trends.
 - Participate in a post-financing review as directed by the Airport staff. At a minimum, this work will include preparation of a memorandum that addresses how the Airport's Revenue Bonds priced relative to market indices and potential comparables. Include an analysis of MSRB trade data showing variances between public issue price and other trades within 3 business days of the original sale.
 - Undertake such additional tasks consistent with the role of financial advisor as the City and the Airport may reasonably request.

4. Frasca commits that in connection with this contract, it will assign Michael Wheet and Adam Whiteman as principal representatives to the City and will additionally assign such other individuals, acceptable to the City, as may be necessary in order for Frasca to carry out the scope of services set forth in this contract.

5. The City commits to cooperate with Frasca in good faith and to provide Frasca necessary/appropriate information on a timely basis so that Frasca may carry out its contracted responsibilities without undue delay.

6. Frasca shall not be authorized to either assign its responsibilities under this contract or to sublet any portion thereof without the advance written approval of the City.

7. The duration of this contract shall be for the balance of the 2011 calendar year or until permanent financing for the authorized Airport revenue bond issue is put in place,

whichever sooner occurs. The duration of this contract may be extended beyond calendar year 2011 by mutual agreement of the parties.

8. This contract may be terminated by either party upon 30 days written notice to the other if there has been a material failure on the part of either party to comply with its obligations hereunder and such obligation has not been cured during the notice period.

9. Based upon the success of the services provided under this contract, the parties may agree to expand the scope and duration of Frasca's professional services to the City to the extent that Frasca would become the Airport's general financial advisor into the future. However, this contract shall not obligate either party to such an undertaking, but shall require a separate and distinct written agreement.

10. In consideration of the professional services to be provided by Frasca under this contract, the City shall pay Frasca the sum of twelve thousand five hundred (\$12,500) per month, on or before the 15th day of each month for services rendered during the prior month, in response to an invoice submitted by Frasca to the City which allows for at least ten days for approval and processing. This monthly rate will remain in place until the Airport revenue bonds are issued and the funds received or until the project is cancelled, whichever sooner occurs. To the extent that professional services from Frasca are provided to the City in the months following the issuance of such revenue bonds, the monthly rate for Frasca's services shall be reduced to eight thousand five hundred (\$8,500) per month. In the event that payments for services are not made when due, and such payment obligations are neither contested nor determined to be not due and owing, the unpaid balance shall be due with interest at the rate of one (1%) percent per month. Additionally, Frasca shall be reimbursed by the City for all reasonably incurred out of pocket expenses in connection with fulfilling its responsibilities hereunder.

11. No amendments or alterations to this contract shall be considered valid and binding on either party unless and until they are reduced to writing and executed by duly authorized representatives of the Airport and Frasca.

12. This contract shall be interpreted in accordance with the laws of the State of Vermont.

13. In the event of any dispute between the City and Frasca as to the obligations of each under this contract and/or payment responsibilities, the parties shall first endeavor in good faith to resolve such differences by direct negotiation. Upon failure to resolve the differences through direct conversation, the parties shall first use the efforts of an experienced mediator to attempt to resolve differences and, if the dispute persists, shall resolve the dispute through final and binding arbitration under the provisions of the Vermont Arbitration Act, (Ch. 192 of Title 12, Vermont Statutes Annotated). In this connection, the following Acknowledgement of Arbitration shall be regarded as a part of this contract:

We understand that this contract contains an agreement to arbitrate. After signing this document, we understand that we will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, we agree to submit any such dispute to an impartial arbitrator.

13. This contract shall be executed in two counterparts, both of which shall be regarded as originals.

14. This contract constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all negotiations prior discussions and preliminary agreements that may have been made prior to the date hereof.

IN WITNESS WHEREOF, the parties execute this contract by duly authorized officials as of the day and date first above written.

FRASCA & ASSOCIATES, L.L.C.

By: _____
Kenneth Cushine, Vice President and
Principal

STATE OF New York
COUNTY OF New York, ss.

At New York City, in the County and State aforesaid, this 31st day of March 2011, personally appeared Kenneth Cushine, duly authorized agent of Frasca & Associates, L.L.C., who acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed and the free act and deed of Frasca & Associates, L.L.C.

Notary Public
My Commission Expires: _____

CITY OF BURLINGTON

By: _____
Duly Authorized

STATE OF VERMONT

COUNTY OF CHITTENDEN, ss.

At Burlington, in the County and State aforesaid, this 31st day of March 2011, personally appeared _____, duly authorized agent of City of Burlington, who acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed and the free act and deed of the City of Burlington, Vermont.

Notary Public
My Commission Expires: 2/10/15

200010-00010 Consulting Services Agreement with Frasca 3-25-11

